

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

LUCI BAGS LLC,

Plaintiff,

v.

YOUNIQUE, LLC,

Defendant.

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Civil Action No. 4:16-cv-377 (ALM)

DECLARATION OF SHARON R. SMITH

Pursuant to 28 U.S.C. § 1746, I, Sharon R. Smith, declare the following statements to be true under the penalties of perjury:

1. I am over the age of 18 years and am fully competent to testify to the matters in this Declaration.

2. This declaration is based on my personal knowledge. If called to do so, I would and could testify to the matters stated herein.

3. I am a partner at Morgan Lewis & Bockius LLP, which represents Defendant Younique, LLC in this matter.

4. On April 21, Younique served the expert report of Rachel Nasvik along with her *curriculum vitae* and supporting exhibits on counsel for Luci Bags LLC (“Luci”). Attached as Exhibit 1 is a true and correct copy of the email I sent serving Ms. Nasvik’s expert report. I have not attached a copy of the Nasvik expert report, as that report has been filed in connection with Younique’s Motion for Summary Judgment as to Functionality. ECF No. 45-8-10.

5. Luci did not disclose Ms. Lucas as an expert or produce a summary of her expected testimony on May 22, 2017.

6. On May 25, 2017, Luci had noticed all depositions it stated it intended to take. On May 26, 2017, Younique noticed all depositions it intended to take.

7. On June 19, 2017, without offering an excuse for its delayed disclosure of any expert testimony, Luci's counsel served a summary of Ms. Lucas' expected testimony. Attached as Exhibit 2 is a true and correct copy of Plaintiff's Supplemental Rule 26(A)(2) Disclosures as served on June 19.

8. Attached hereto as Exhibit 3 is a true and correct copy of a meet and confer letter sent by email to Luci's counsel on June 21, 2017, objecting to Ms. Lucas providing expert opinions and testimony at trial.

9. Attached as Exhibit 4 is a true and correct copy of an email from Luci's counsel sent on June 22, 2017.

10. The parties met and conferred about the motion to exclude Ms. Lucas' expert testimony during a phone conference on June 30, 2017. Following the conference, Luci did not agree to withdraw Ms. Lucas as an expert or to provide a more fulsome disclosure of her intended expert testimony.

11. During the conference, the parties, did agree, however, that no party would provide testimony or opinions about whether any bag was or was not infringing.

Executed August 2, 2017 in San Francisco, California.

/s/ Sharon R. Smith
Sharon R. Smith